



February 4, 2005

## SENATE BILL No. 444

DIGEST OF SB 444 (Updated February 2, 2005 11:45 am - DI 104)

**Citations Affected:** IC 35-48; noncode.

**Synopsis:** Sale of methamphetamine precursor. Prohibits a person from selling more than two packages of a drug containing ephedrine or pseudoephedrine in one transaction, and requires that a drug containing ephedrine or pseudoephedrine be sold in a container or package containing not more than three grams of ephedrine or pseudoephedrine. Requires the package of a drug containing ephedrine or pseudoephedrine to be stored in a secure manner. Prohibits a unit from adopting an ordinance after June 30, 2005 that is more stringent than this bill. Makes improper storage or sale of a drug containing ephedrine or pseudoephedrine a Class B infraction for the first offense and a Class A misdemeanor thereafter.

**Effective:** July 1, 2005.

**Young R Michael, Skinner, Broden,  
Server, Bray, Weatherwax**

January 13, 2005, read first time and referred to Committee on Health and Provider Services.  
February 3, 2005, amended, reported favorably — Do Pass.

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February 4, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 444

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-48-4-14.7 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2005]: **Sec. 14.7. (a) This section does not**  
4 **apply to:**

- 5 (1) **liquid ephedrine or pseudoephedrine;**
- 6 (2) **ephedrine or pseudoephedrine dispensed under a**  
7 **prescription;**
- 8 (3) **the sale of a drug containing ephedrine or**  
9 **pseudoephedrine to a licensed health care provider,**  
10 **pharmacist, retail distributor, wholesaler, manufacturer, or**  
11 **an agent of any of these persons if the sale occurs in the**  
12 **regular course of lawful business activities; or**
- 13 (4) **the sale of a drug containing ephedrine or**  
14 **pseudoephedrine by a person who does not sell exclusively to**  
15 **walk-in customers for the personal use of the walk-in**  
16 **customers.**

17 (b) **As used in this section, "constant video monitoring" means**

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the surveillance by an automated camera that:

- (1) records at least one (1) photograph or digital image every ten (10) seconds;
- (2) retains a photograph or digital image for at least seventy-two (72) hours;
- (3) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and
- (4) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(c) As used in this section, "ephedrine" means pure or adulterated ephedrine.

(d) As used in this section, "liquid ephedrine or pseudoephedrine" means a drug that:

- (1) contains ephedrine or pseudoephedrine;
- (2) is in liquid, liquid capsule, or gel capsule form; and
- (3) has an active ingredient in addition to ephedrine or pseudoephedrine.

(e) As used in this section, "pseudoephedrine" means pure or adulterated pseudoephedrine.

(f) A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both, only if the person complies with the following conditions:

- (1) The drug is sold in a container or package that contains not more than three (3) grams of ephedrine or pseudoephedrine.
- (2) Not more than two (2) packages are sold in one (1) transaction.
- (3) If the sales transaction occurs at a self-service checkout station, the self-service checkout station prevents the person from purchasing more than:
  - (A) one (1) package of the drug without the assistance of an employee; and
  - (B) two (2) packages of the drug.
- (4) The person restricts access to the drug in one (1) or more of the following ways:
  - (A) The person stores the drug in an area not accessible to a customer.
  - (B) The person displays the drug in a locked case.
  - (C) The person requires a customer to produce a state or federal identification card when purchasing the drug, and the person records the customer's identification in a log that:

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(i) may be inspected by a law enforcement official in accordance with state and federal law; and

(ii) must be maintained for at least two (2) years.

(D) The person adopts at least two (2) of the following restrictions:

(i) The drug is stored not more than thirty (30) feet away from a checkout station or counter and is in the direct line of sight of an employee at the checkout station or counter.

(ii) The drug is protected by a reliable anti-theft device that uses package tags and detection alarms designed to prevent theft.

(iii) The drug is stored in restricted access shelving that permits a customer to remove not more than one (1) package every fifteen (15) seconds.

(iv) The drug is stored in an area that is under constant video monitoring, and a sign placed near the drug warns that the area is under constant video monitoring.

(g) A person who violates this section commits a Class B infraction. However, the offense is a Class A misdemeanor if the person:

(1) has a prior unrelated judgment or conviction under this section; and

(2) knowingly or intentionally violates this section.

(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after June 30, 2005, that is more stringent than this section.

SECTION 2. [EFFECTIVE JULY 1, 2005] IC 35-48-4-14.7, as added by this act, applies only to an offense committed after June 30, 2005.

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SENATE MOTION

Madam President: I move that Senator Bray be removed as second author of Senate Bill 444.

BRAY

SENATE MOTION

Madam President: I move that Senator Skinner be added as second author and Senator Bray be added as coauthor of Senate Bill 444.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senator Weatherwax be added as coauthor of Senate Bill 444.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senator Dillon be added as coauthor of Senate Bill 444.

YOUNG R MICHAEL

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## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 444, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 1, delete "of" and insert "**by**".  
 Page 2, delete lines 18 through 20.  
 Page 2, line 21, delete "(f)" and insert "**(e)**".  
 Page 2, delete lines 23 through 27.  
 Page 2, line 28, delete "(h)" and insert "**(f)**".  
 Page 2, line 28, delete "single ingredient".  
 Page 2, line 28, after "drug" insert "**that contains the active ingredient of ephedrine, pseudoephedrine, or both,**".  
 Page 2, delete lines 30 through 39.  
 Page 2, line 40, delete "blister" and insert "**container or**".  
 Page 2, line 41, delete ":".  
 Page 2, delete line 42.  
 Page 3, line 1, delete "(B)".  
 Run in page 2, line 41 through page 3, line 1.  
 Page 3, line 34, delete "store" and insert "**stored**".  
 Page 3, line 37, delete "(j)" and insert "**(g)**".  
 Page 3, after line 42, begin a new paragraph and insert:  
**"(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after June 30, 2005, that is more stringent than this section."**

and when so amended that said bill do pass.

(Reference is to SB 444 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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